

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

ROLLAN WILLIAMS,)	No. ED95386
)	
Movant/Appellant,)	
)	Appeal from the Circuit
vs.)	Court of the City of St. Louis
)	
STATE OF MISSOURI,)	
)	Honorable Bryan L. Hettenbach
Respondent.)	
)	Filed: November 15, 2011

Rollan Williams (hereinafter, “Movant”) appeals from the motion court’s judgment denying his Rule 29.15 post-conviction motion without an evidentiary hearing. In the underlying case, Movant was found guilty of robbery in the first degree, Section 569.020 RSMo (2000)¹, armed criminal action, Section 571.015, and unlawful use of a weapon, Section 571.030. The trial court sentenced Movant to thirty years’ imprisonment. This Court affirmed his conviction. State v. Williams, 291 S.W.3d 373 (Mo. App. E.D. 2009). Movant thereafter filed his motion, pursuant to Rule 29.15, alleging his trial counsel failed to call a witness and his appellate counsel failed to raise a meritorious issue on appeal.

AFFIRMED, IN PART, AND REVERSED AND REMANDED, IN PART.

Division IV Holds: Trial counsel was not ineffective for failing to call a witness whose testimony would not provide Movant with a viable defense. The case is remanded for an evidentiary hearing to determine the effectiveness of appellate counsel’s failure to raise an argument challenging the sufficiency of the evidence on the unlawful use of a weapon conviction when there was no evidence the gun used by Movant was readily capable of lethal use.

Opinion by: George W. Draper III, Sp.J.
Patricia L. Cohen, P.J., and Robert M. Clayton III, J., concur

Attorneys for Appellant: Loyce Ann Rhodes Hamilton
Attorney for Respondent: Timothy A. Blackwell

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.

¹ All further statutory references herein are to RSMo (2000).